

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DOUGLAS MURRAY SANDERS,

Plaintiff,

v.

No. 21-cv-1160 SMV

**SANTA FE GOLD CORPORATION and
MINERAL ACQUISITIONS, LLC,**

Defendants.

**MEMORANDUM OPINION AND ORDER
GRANTING MOTION TO PROCEED *IN FORMA PAUPERIS* AND
ORDER FOR SERVICE OF NOTICE AND WAIVER**

THIS MATTER is before the Court on pro se Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs [Doc. 2], filed December 3, 2021.

The statute for proceedings *in forma pauperis*, 28 U.S.C. § 1915(a), provides that the Court may authorize the commencement of any suit without prepayment of fees by a person who submits an affidavit that includes a statement of all assets the person possesses and that the person is unable to pay such fees.

When a district court receives an application for leave to proceed in forma pauperis, it should examine the papers and determine if the requirements of 28 U.S.C. § 1915(a) are satisfied. If they are, leave should be granted. Thereafter, if the court finds that the allegations of poverty are untrue or that the action is frivolous or malicious, it may dismiss the case.

Menefee v. Werholtz, 368 F. App'x. 879, 884 (10th Cir. 2010) (brackets omitted) (quoting *Ragan v. Cox*, 305 F.2d 58, 60 (10th Cir. 1962)). “The statute [allowing a litigant to proceed *in forma pauperis*] was intended for the benefit of those too poor to pay or give security for costs . . .”

Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 344 (1948). While a litigant need not be “absolutely destitute[,] an affidavit is sufficient which states that one cannot because of his poverty pay or give security for the costs and still be able to provide himself and dependents with the necessities of life.” *Id.* at 339 (quotation marks and ellipsis omitted).

The Court will grant Plaintiff’s Application to Proceed in District Court Without Prepaying Fees or Costs. [Doc. 2]. Plaintiff signed an affidavit stating he is unable to pay the costs of these proceedings and provided the following information: (i) Plaintiff’s average monthly income amount during the past 12 months is \$412; (ii) Plaintiff’s expected income next month is \$0; (iii) Plaintiff’s monthly expenses total \$1,150; and (iv) Plaintiff has \$0 in cash and no money in bank accounts. *Id.* The Court finds that Plaintiff is unable to pay the costs of this proceeding because he signed an affidavit stating he is unable to pay the costs of these proceedings, and because his monthly expenses exceed his low monthly income. *Id.*

Section 1915 provides that the “officers of the court shall issue and serve all process.” Accordingly, the Court will order the Clerk of the Court (1) to notify Defendants, at the addresses provided by Plaintiff, that an action has been commenced against them, and (2) to request that Defendants waive service pursuant to Fed. R. Civ. P. 4(d).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff’s Application to Proceed in District Court Without Prepaying Fees or Costs [Doc. 2] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk of the Court notify Defendants that an action has been commenced and request that Defendants waive service pursuant to Fed. R. Civ. P. 4(d). The notice must include a copy of Plaintiff’s Complaint for a Civil Case Alleging Breach of Obligations [Doc. 1]. The Clerk shall mail the notice, waiver, and a copy of the Complaint to:

Santa Fe Gold Corporation
3544 Rio Grande Boulevard, N.W.
Albuquerque, New Mexico 87107

and

Mineral Acquisitions, LLC
3544 Rio Grande Boulevard, N.W.
Albuquerque, New Mexico 87107

IT IS FURTHER ORDERED that if Defendant(s) do not return the waiver within 45 days after service of the notice, waiver, and copy of the Complaint, Plaintiff may file a motion requesting that officers of the Court serve the Summons and Complaint on Defendant(s).

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge